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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

23 Cr. 20 (ER)

5 PEACH STERGO,

6 Defendant.

7 -----x

8 New York, N.Y.  
9 February 2, 2023  
4:00 p.m.

10 Before:

11 HON. EDGARDO RAMOS,

12 District Judge

13 APPEARANCES

14 DAMIAN WILLIAMS,

15 United States Attorney for the  
Southern District of New York

16 BY: ADAM S. SOWLATI

Assistant United States Attorney

17 DAVID PATTON

18 FEDERAL DEFENDERS OF NEW YORK

Attorney for Defendant

19 BY: MICHAEL ARTHUS

20 ALSO PRESENT: Meherun Mayer, Pretrial Services Officer

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(Case called)

MR. SOWLATI: Good afternoon, your Honor. Adam Sowlati for the United States. I'm joined at counsel's table by Pretrial Services Officer Meherun Mayer.

THE COURT: Good afternoon.

MR. ARTHUS: Good afternoon. For Ms. Stergo, Federal Defenders, Michael Arthus.

THE COURT: Good afternoon to you all.

This matter is on for an arraignment.

Mr. Arthus, let me ask you, have you received a copy of the indictment?

MR. ARTHUS: Yes.

THE COURT: Had you discussed the indictment with your client?

MR. ARTHUS: Yes.

THE COURT: Do you wish a public reading?

MR. ARTHUS: No.

THE COURT: And how does your client plead?

MR. ARTHUS: Not guilty.

THE COURT: Very well. Let me begin.

Has a Rule 5 order been entered in this case as of yet, Mr. Sowlati?

MR. SOWLATI: Your Honor, I believe it has not been.

THE COURT: Let me do that first.

Mr. Sowlati, I direct the prosecution to comply with

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1 its obligation under *Brady v. Maryland* and its progeny, to  
2 disclose to the defense all information, whether admissible or  
3 not, that is favorable to the defendant, material either to  
4 guilt or to punishment and known to the prosecution.

5 Possible consequences for noncompliance may include  
6 dismissal of individual charges or the entire case, exclusion  
7 of evidence, and professional discipline or court sanctions on  
8 the attorneys responsible.

9 I will be entering a written order more fully  
10 describing this obligation and the possible consequences of  
11 failing to meet it. I direct the prosecution to review and  
12 comply with that order.

13 Mr. Sowlati, do you confirm that you understand your  
14 obligations and you will fulfill them?

15 MR. SOWLATI: Yes, your Honor.

16 THE COURT: Mr. Sowlati, why don't you give me a  
17 thumbnail of the case, what this is all about and what is the  
18 nature of the discovery and when can it be produced if it has  
19 not already been produced.

20 MR. SOWLATI: Yes, your Honor. The defendant here is  
21 accused of defrauding an 87-year-old Holocaust survivor of his  
22 life savings. She met the victim around six or seven years ago  
23 in an online website, dating website. Shortly after meeting  
24 him, she began a fraud where she would ask him to deposit money  
25 in her account, claiming that her account was frozen, that

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1 there were arrears that were owed, and that she would pay him  
2 back over a course of approximately four and a half years. She  
3 defrauded the victim, as alleged, of approximately  
4 \$2.8 million.

5 As for the discovery in this case, the government has  
6 submitted a proposed protective order, which the parties have  
7 agreed to. After that protective order is entered, the  
8 government plans to produce the bulk, nearly all of the  
9 discovery, Rule 16 discovery tomorrow to the defense.

10 The discovery includes communications between the  
11 defendant and the victim; an email exchange between the victim  
12 and a person purporting to be a TD Bank employee who, in  
13 actuality, was the defendant; fake invoices for diamond  
14 purchases created by the defendant; fake letters from TD Bank  
15 that were authored by the defendant; recordings of the  
16 defendant making fraudulent misrepresentations to the victim;  
17 bank account statements from the defendant --

18 THE COURT: So there were recordings?

19 MR. SOWLATI: There were, that were made by the  
20 victim, his family member.

21 THE COURT: Okay.

22 MR. SOWLATI: Bank account statements from the  
23 defendant's and the victim's bank accounts; various materials  
24 related to forfeiture, including materials from entities where  
25 the defendant made purchases using fraudulent funds; and bank

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1 account statements for the people and entities who received  
2 fraudulent funds; excerpts of interviews of the victim and  
3 family members; an image of the victim's phone; a backup hard  
4 drive from the victim.

5 In addition, the government has obtained a number of  
6 warrants in this case that will be produced, including the  
7 affidavits and the returns that --

8 THE COURT: I'm sorry. Repeat that. What affidavits?

9 MR. SOWLATI: The affidavits for the warrants. We  
10 will be producing those, as well as the returns that it has  
11 obtained to date. Those warrants are, first, a search warrant  
12 for the fake TD Bank employee that I mentioned earlier and the  
13 returns for that warrant --

14 THE COURT: I'm sorry. A search warrant for what?

15 MR. SOWLATI: For the fake TD Bank employee that was  
16 corresponding with the victim in this case.

17 THE COURT: You're losing me. So you subpoenaed a  
18 fake employee?

19 MR. SOWLATI: So there is a Gmail account from  
20 somebody purporting to be a TD Bank employee that was  
21 corresponding with the victim in this case and telling the  
22 victim to deposit funds into the defendant's bank account.

23 THE COURT: So you subpoenaed a Gmail account for that  
24 person?

25 MR. SOWLATI: We obtained a warrant for that account.

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1 THE COURT: Okay.

2 MR. SOWLATI: Yes, your Honor. So we will be  
3 producing the returns from that account as well as the warrant  
4 and the affidavit itself.

5 A second warrant is a premises search warrant for the  
6 defendant's home and the returns in the form of property  
7 vouchers, which show the various luxury goods the defendant  
8 purchased with the fraudulent proceeds, and photographs from  
9 the premises.

10 Third, and finally, a search warrant for the  
11 defendant's Hotmail e-mail account. The government has not yet  
12 obtained the returns for that Hotmail account, but we'll  
13 produce those returns when it has them.

14 A few additional notes on discovery.

15 There were no postarrest statements. As noted, we do  
16 not have returns for the defendant's Hotmail account. We also  
17 recovered two devices, electronic devices from the defendant's  
18 residence, an iPhone and an iPad.

19 THE COURT: When was that?

20 MR. SOWLATI: That was at the time of arrest on  
21 January 25th.

22 THE COURT: I take it those items have not yet been  
23 imaged?

24 MR. SOWLATI: That's right. We do not have access to  
25 them yet. They're password locked and we are attempting to

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1 gain access to those devices but do not have access yet.

2 THE COURT: Very well.

3 MR. SOWLATI: And that's the summary, essentially, of  
4 the discovery.

5 THE COURT: And you also mentioned a telephone from  
6 the defendant?

7 MR. SOWLATI: Yes.

8 THE COURT: Has that been imaged?

9 MR. SOWLATI: No, neither the iPad nor the iPhone that  
10 we obtained on January 25th have been imaged.

11 THE COURT: So entirely possible that whatever you  
12 obtain from those devices may be at least as great, if not much  
13 greater than the actual discovery that you will be able to turn  
14 over tomorrow?

15 MR. SOWLATI: That's certainly possible, your Honor,  
16 yes.

17 THE COURT: Mr. Arthus, sir, how do you wish to  
18 proceed?

19 MR. ARTHUS: So I would say put this on for a  
20 conference date for me to review the discovery. It actually  
21 sounds like the discovery will be fairly voluminous and may  
22 need to be looked at by a forensic accountant.

23 I also want to point out, so the Court is aware, that  
24 she may be retaining in this case, so that may be another issue  
25 that comes up during this adjournment.

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1 THE COURT: Obviously, let us know that as soon as you  
2 are able.

3 So we'll set a date. About how long do you think,  
4 Mr. Arthus?

5 MR. ARTHUS: If I get the discovery tomorrow, I think  
6 early March should be fine for me to go through it with her.

7 THE COURT: Ms. Rivera.

8 MR. SOWLATI: Your Honor, if I may just note on the  
9 record, the victim here is 87 years old and he's of ill health.  
10 It's the government's hope to proceed as expeditiously as  
11 possible in these proceedings, including setting a trial date  
12 as soon as possible and as soon as the Court would reasonably  
13 allow.

14 THE COURT: Okay. I thought that might be the case.

15 How long will this case take to try if you are able to  
16 make an estimate at this point, Mr. Sowlati?

17 MR. SOWLATI: Your Honor, I would say about two weeks.

18 THE COURT: Ms. Rivera.

19 THE DEPUTY CLERK: March 2 at 11:30.

20 THE COURT: Not that soon. They haven't gotten any  
21 discovery yet.

22 MR. ARTHUS: Are we discussing a trial date?

23 THE COURT: Yes.

24 THE DEPUTY CLERK: I'm sorry. That was the next  
25 conference date.

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1 MR. ARTHUS: I still think I would need a conference  
2 to actually go through discovery, especially if retained  
3 counsel winds up stepping in. It also sounds like there is  
4 going to be fairly substantial motion practice in terms of the  
5 search warrants and I can't imagine that this would not require  
6 the services of a forensic accountant, and there's no way that  
7 can be pulled together in a few weeks, obviously. I'll move as  
8 expeditiously as possible, but this is also a sizeable amount  
9 of stuff.

10 THE COURT: Mr. Sowlati, you might want to consider  
11 whether it would be possible to preserve the testimony of the  
12 victim by way of deposition.

13 MR. SOWLATI: Yes, your Honor. That is something that  
14 we'd like to pursue.

15 THE COURT: Okay. I don't believe, based on my  
16 current trial schedule, that I will be able to try this case  
17 before the summer in any event. Why don't you and Mr. Arthus  
18 speak some more.

19 When are we first available, Ms. Rivera?

20 THE DEPUTY CLERK: About mid June.

21 THE COURT: Mid June. So that's five months out.

22 THE DEPUTY CLERK: June 12 is the earliest.

23 THE COURT: So we'll pencil in June 12 for trial.

24 MR. ARTHUS: Just as a note, Mr. Sowlati and I  
25 actually have another trial June 5th.

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1 THE COURT: Is that going to be a two-week trial?

2 MR. SOWLATI: That should be a much shorter trial,  
3 your Honor. If we are able to do it towards the end of June,  
4 if there's availability, that might give a little bit of a  
5 buffer, or beginning of July. Obviously, this is something,  
6 given the victim's age, we're willing to proceed as fast as  
7 possible. So if June 12th is all that's available for the  
8 Court, we'll proceed that date.

9 THE DEPUTY CLERK: June 26.

10 MR. SOWLATI: Okay.

11 THE COURT: Now on the issue of bail, is there  
12 agreement to a bail package?

13 MR. SOWLATI: Your Honor, the government is going to  
14 agree to the same bail package that was set forth in the Middle  
15 District of Florida.

16 THE COURT: Very well. Ms. Mayer, any objection to  
17 that?

18 MS. MAYER: No objection.

19 THE COURT: For the record, what are those conditions,  
20 Mr. Sowlati?

21 MR. SOWLATI: Yes, your Honor. They are an unsecured  
22 bond binding the defendant to pay the United States the sum  
23 of --

24 THE COURT: I'm sorry. You need to slow down.

25 MR. SOWLATI: An unsecured bond binding the defendant

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1 to pay the United States the sum of \$100,000 in the event of a  
2 failure to appear as required or to surrender as directed for  
3 service of any sentence imposed;

4 Second, report as directed by the Pretrial Services  
5 office;

6 Third, maintain or actively seek employment;

7 Forth, surrender any passport to the clerk of the  
8 U.S. District Court;

9 Fifth, obtain no passport;

10 Sixth, abide by the following restrictions on personal  
11 associations, place of abode, or travel. Defendant is  
12 restricted in residence and travel to the Middle District of  
13 Florida or the Southern District of New York, may travel to the  
14 Southern District of Florida at the discretion of Pretrial  
15 Services;

16 Seventh, substance abuse evaluation and any  
17 recommended treatment;

18 Eighth, mental health evaluation and any recommended  
19 treatment;

20 Ninth, refrain from possessing a firearm, destructive  
21 device, or other dangerous weapon;

22 Tenth; refrain from excessive use of alcohol;

23 Eleventh, no contact with any witnesses or victims;

24 Twelfth, refrain from any use or possession of a  
25 narcotic drug or other controlled substance in 21 U.S.C.

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1 Section 802, unless with prior written approval of the Pretrial  
2 Services officer or as may be lawfully prescribed in writing by  
3 a licensed medical practitioner;

4 Thirteenth, report as soon as possible to the Pretrial  
5 Services office any contact with law enforcement personnel,  
6 including but not limited to any arrest, questioning, or  
7 traffic stop;

8 Fourteenth, do not be in possession of any personal  
9 identification of others except those of own children; and

10 Fifteenth, do not open any new business, line of  
11 credits, or bank accounts.

12 THE COURT: I hate to step on agreement between the  
13 parties, but shouldn't she also be allowed to fly into the  
14 Eastern District?

15 MR. SOWLATI: Yes, your Honor, that should be amended  
16 to allow that.

17 THE COURT: And I understand that she owns a gun.

18 MR. ARTHUS: That has been surrendered already in  
19 Florida, as well as the passport was surrendered in Florida.

20 THE COURT: The gun was surrendered to law  
21 enforcement? The information that I have is that she handed it  
22 over to a friend.

23 MR. ARTHUS: Yes, and I believe in the report it was  
24 or the recommendation was to either surrender it to law  
25 enforcement or to a lawful gun owner. So I believe she's done

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1 that, the second one. If you would rather she surrender it to  
2 law enforcement, that's certainly fine. She would just have to  
3 get it back at that point, which would possibly be complicated.

4 THE COURT: Mr. Sowlati, do you have a view?

5 MR. SOWLATI: My view is she should surrender it to  
6 law enforcement. That's my view.

7 THE COURT: Very well. So that will be amended, as  
8 well.

9 MR. ARTHUS: For her to obtain it and then surrender  
10 it?

11 THE COURT: Or have the person surrender it directly  
12 to law enforcement.

13 MR. ARTHUS: Okay. Just, in terms of a Rule 12  
14 schedule for motions, I don't know how the Court typically  
15 handles --

16 THE COURT: I typically allow defense counsel to  
17 review discovery and tell me how he wishes to proceed.

18 MR. ARTHUS: Okay.

19 THE COURT: Mr. Sowlati, if you think that based on  
20 the exigency of the victim's age, I can certainly set a motion  
21 schedule now.

22 MR. ARTHUS: Probably makes sense for me to sort  
23 through and see what the motions even would be. So that would  
24 make the most sense to then contact the Court.

25 THE COURT: Very well. So we'll wait to hear from you

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1 and we'll see you March 2 at 11:30 a.m.

2 This will have be to modified to add the Eastern  
3 District and to direct her to surrender the gun. Okay.

4 Anything else, Mr. Sowlati?

5 MR. SOWLATI: Nothing else from the government, your  
6 Honor.

7 MR. ARTHUS: Should she sign the new bond here or  
8 should she go to the clerk's office?

9 THE DEPUTY CLERK: She has to go to the clerk's  
10 office.

11 MR. ARTHUS: Okay.

12 THE COURT: Speedy trial, Mr. Sowlati.

13 MR. SOWLATI: Yes, your Honor. In order to give the  
14 defendant time to review the discovery produced by the  
15 government and the parties to discuss a pretrial resolution to  
16 this matter and for the defendant to produce any motions, the  
17 government submits that the ends of justice support excluding  
18 time until the March 2nd, 2023 conference.

19 THE COURT: Any objection?

20 MR. ARTHUS: No.

21 THE COURT: So the time between now and March 2nd will  
22 be excluded under the speedy trial clock. I find that  
23 Ms. Stergo's interest in excluding that time outweigh the  
24 interests of the public in a speedy trial for the reasons set  
25 forth on the record by Mr. Sowlati.

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With that, we are adjourned.

Mr. Sowlati, Ms. Mayer, Mr. Arthus, welcome.

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